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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,266

09/22/2003

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EXAMINER

HALPERN, MARK

ART UNIT

PAPER NUMBER

1731

MAIL DATE

DELIVERY MODE

08/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/666,266

Applicant(s)

SCOBIE, MICHAEL A.N.

Examiner

Mark Halpern

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-26, 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 13-17, 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 18-22, 25, 26, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

- 1) Acknowledgement is made of Amendment received 9/20/2006.

Claims 1, 18 are amended and new claims 39-40 are offered for consideration.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claims 18-22, 25-26, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 depends from independent claim 1. In view that claim 1 is limited to steps (a), (b) and (c) by the phrase "**consisting of**", claim 18 as a dependent claim may not further recite steps (d) and (e). Claim 18 may be presented as an independent claim reciting steps (a) to (e).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3) Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Betzner (6,068,804) in view of Shepard (6,869,659) or in view of Otsuji (7,128,023). Betzner discloses a process of making a fiberboard that includes the steps of forming a slurry that includes lignocellulose fibrous materials (col. 4, lines 16-30) and asphalt, mixing the slurry to uniformly distribute the components, dewatering the slurry to form a wet mat, pressing the wet mat in a pressing means under pressure to make it uniformly consolidated, and drying the mat for a duration of time at a temperature range (Abstract, and Figures 1-3). Betzner discloses the finished mat to be of thickness in the range of 3/8 - 3/4 in. (col. 7, lines 1-4), which calculates to a range of 0.952 - 1.9 cm. Betzner fails to disclose fiber material thickness of at least 5 cm. Shepard discloses making of fiber mats of 10 cm thickness (col. 12, lines 33-36). Otsuji discloses a process of making a fiber bat of 5 cm thickness (col. 2, lines 25-30). Betzner and Shepard or Otsuji disclose each element of the invention. One of ordinary skill in the art could have combined the elements by known methods since the combination of Betzner and Shepard or Otsuji is a combination of known methods, and each element combined would have performed the same function as it did separately, and thus one of ordinary

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skill in the art would have recognized that the results of the combination were predictable.

4) Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Betzner in view of Otsuji. Betzner discloses a process of making a fiberboard that includes the steps of forming a slurry that includes lignocellulose fibrous materials (col. 4, lines 16-30) and asphalt, mixing the slurry to uniformly distribute the components, dewatering the slurry to form a wet mat, pressing the wet mat in a pressing means under pressure to make it uniformly consolidated, and drying the mat for a duration of time at a temperature range (Abstract, and Figures 1-3). Betzner discloses the finished mat to be of thickness in the range of $3/8$ - $3/4$ in. (col. 7, lines 1-4), which calculates to a range of 0.952 - 1.9 cm. Betzner fails to disclose fiberboard bulk density in the range claimed and dewatering application of compression pressure in the range claimed. Otsuji discloses making of fiber mats of bulk density claimed (col. 2, lines 30-40) under dewatering pressing in the range of claimed pressure (col. 7, lines 31-45). Betzner and Otsuji disclose each element of the invention. One of ordinary skill in the art could have combined the elements by known methods since the combination of Betzner and Otsuji is a combination of known methods, and each element combined would have performed the same function as it did separately, and thus one of ordinary skill in the art would have recognized that the results of the combination were predictable.

5) Claims 25-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Betzner. Betzner discloses the claimed product.

In the event any differences can be shown for the product of the product-by-process claims 25-26, as opposed to the product taught by the reference Betzner, such differences would have been obvious to one of ordinary skill in the art as a routine modification of the product in the absence of a showing of unexpected results; see also In re Thorpe, 227 USPQ 964 (Fed. Cir. 1985).

Allowable Subject Matter

6) The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for indication of allowable subject matter is that the cited prior art does not show: a method of making a formed, dried lignocellulose fiber material **consisting of** providing a lignocellulose fiber pulp slurry of an effective consistency, de-watering said slurry by applying a compression pressure under an effective pressure to prevent or reduce the formation of fissures and voids within said material, and drying the de-watered material at a temperature and pressure to form a shape having a thickness claimed (claims 1-11, 13-17); a formed lignocellulose fiber material (claims 23-24).

Note: the formed lignocellulose fiber material of claim 23 is based on structure of claim 1 which is limited by the phrase "consisting of".

Response to Amendment

- 7) Claims 1-11, 14, 16-17 rejection under 35 U.S.C. 102(b) as being anticipated by Betzner, is withdrawn in view of amended claims.
- 8) Claim 13 rejection under 35 U.S.C. 103(a) as being unpatentable over Betzner is withdrawn in view of amended claims.
- 9) Claim 15 rejection under 35 U.S.C. 103(a) as being unpatentable over Betzner in view of Bodary, is withdrawn in view of amended claims.
- 10) Claims 23-24 rejection under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Betzner, is withdrawn in view of amended claims.
- 11) Claims 18-22, 25-26 rejection under 35 U.S.C. 103(a) as being unpatentable over Betzner in view of Symons, is withdrawn in view of amended claims.
- 12) Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

- 13) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone no. is 571-272-1190.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Mark Halpern/
Primary Examiner
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